

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
WEDNESDAY, OCTOBER 22, 2014**

PRESENT: Peter F. Murphy, Springfield District  
Janet R. Hall, Mason District  
James R. Hart, Commissioner At-Large  
Ellen J. Hurley, Braddock District  
John C. Ulfelder, Dranesville District  
James T. Migliaccio, Lee District  
Earl L. Flanagan, Mount Vernon District  
Kenneth A. Lawrence, Providence District  
John L. Litzenberger, Jr., Sully District  
Janyce N. Hedetniemi, Commissioner At-Large  
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Frank A. de la Fe, Hunter Mill District

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The meeting was called to order at 8:20 p.m. by Chairman Peter F. Murphy in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Lawrence announced that the Planning Commission's Tysons Committee had met earlier this evening to continue work on the amendment to the Tysons Comprehensive Plan. He noted that committee was nearly finished with the transportation section and said that he would soon announce when the next meeting would be.

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On behalf of the Planning Commission, Chairman Murphy congratulated John Cooper, Clerk to the Planning Commission, on his promotion from Administrative Assistant V to Management Analyst I.

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Commissioner Hart announced that the Commission's Environment Committee would meet on Thursday, October 23, 2014, at 7:00 p.m., in the Board Conference Room of the Fairfax County Government Center, adding that everyone was welcome to attend.

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Commissioner Hart announced that Jean Packard, former Chairman of the Board of Supervisors, passed away on Tuesday, October 21, 2014. He noted that she was the first woman elected to the

Park Authority Board and Northern Virginia Soil and Water Conservation District. He added that Ms. Packard was committed to many other environmental organizations in the county and said that she was an inspiration to all who worked with her. Chairman Murphy agreed and said that she would be greatly missed.

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Chairman Murphy announced that Virginia State Governor Terry McAuliffe had reappointed Commissioner At-Large Tim Sargeant to the Board of Visitors for Gunston Hall and congratulated him on behalf of the Commission.

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PA 2013-III-FC1 (A) – FAIRFAX CENTER AREA SUBURBAN CENTER STUDY, PHASE I  
S13-III-FC1 – FAIRFAX CENTER LAND UNITS T, U, AND V

Chairman Murphy: I mentioned a couple weeks ago my intent to defer the public hearing on two Out-of-Turn Plan Amendments that are part of Fairfax Forward dealing with two items, as I said, in the Fairfax Center area. They were scheduled for public hearing this evening. I'm going to defer them, since we are still working with the citizens, to a date certain. So now I would MOVE THAT THE PLANNING COMMISSION DEFER AMENDMENTS 2013-III-FC1 (A) AND S13-III-FC1 TO A DATE CERTAIN OF NOVEMBER 12<sup>TH</sup>.

Commissioners: Second.

Chairman Murphy: Pardon?

Commissioner Hurley: Second.

Chairman Murphy: Yes, seconded – seconded by three or four people. Is there a discussion of the motion? All those in favor of the motion to defer, say aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 11-0. Commissioner de la Fe was absent from the meeting.

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FS-D14-22 – VERIZON WIRELESS, 1633 DAVIDSON ROAD

Commissioner Ulfelder: I have a feature shown this evening –

Chairman Murphy: Okay.

Commissioner Ulfelder: – that I would like to move on and if you will indulge me for a minute, I had circulated a copy of a letter dated October 15<sup>th</sup> from a representative of Crown Castle to the President of the West Lewinsville Heights Citizens Association. It turns out that in 2004, when

this pole was last increased to its current height, an attorney representing the then pole owner, Milestone, sent a letter to the West Lewinsville Heights Citizens Association saying they would never, ever raise the height of that pole, despite the fact that the Planning Commission and the county could proceed, based on its policies to do what it sees fit. So, when the issue came up this time, they asked for a balloon test. The feedback I got was – I observed and then I – the feedback I got was that there was very little additional impact and there was only one site where they could see the tippy-top of the new proposed height of the pole. But they wanted some letter from Crown Castle. Well, this is the letter they got. I would like to introduce – have it as part of the record of this decision. And, with that, I would like to MOVE THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S DETERMINATION FOR APPLICATION FS-D14-22 THAT, TO EXTEND THE EXISTING TELECOMMUNICATIONS STRUCTURE AT THE MCLEAN HIGH SCHOOL, 1633 DAVIDSON ROAD, BY 10-FEET, PROPOSED BY VERIZON WIRELESS, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN," PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to concur with the "feature shown" determination in FS-D14-22, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 11-0. Commissioner de la Fe was absent from the meeting.

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SE 2014-SU-010 – CSH ARTISAN FAIRFAX, LLC (Decision Only) (The public hearing on this application was held on September 18, 2014.)

Commissioner Litzenberger: I have a decision only tonight, Mr. Chairman. It has to do with the Artisan Elderly facility proposed in Chantilly. I'd like for Ms. Abrahamson to give us an update on the research on this on this.

Kris Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning: How much of an update do you want? I can go through – we've – I'll give you the short version and if you want me to expand, I can give you more. The concerns of the Commission, primarily, were with the status of the service station, which is on the same service drive as the proposed use. We have been out to the site. The service station is indeed in violation as we – I think, Billy – had mentioned to you before. We have at this point elected not to file a notice of violation with him because they have hired an attorney who has requested a pre-application meeting, which Billy and I are trying to set up with him as we speak, and we anticipate that you will be seeing that Special Exception application shortly. We think that is the better way to proceed at this point. The issue of the service drive will be addressed through that application, which is where it

should be addressed because that is the property that currently owns it. This particular property is not dependent on that particular service drive and therefore we are comfortable with where we are on this case at this time.

Commissioner Litzenberger: Ms. Abrahamson, how long will it take to go through that whole process and get the service drive accepted?

Ms. Abrahamson: Let me get out my crystal ball. I mean, we're trying to set up a meeting with them as soon possible, within the next week to two weeks, depending on mutual schedules. I'm reasonably comfortable we can do that. We'll talk to them about what our concerns are. There was a previous Special Exception on this that expired. He never implemented it and it just expired. So we have a pretty good idea of what the issues were, although that's an old SE and – you know, times have changed. We have a pretty good idea where we're going. My guess is we would do as much as we could as staff to expedite it. My second guess would be the supervisor would also be in favor of probably expediting it, but I – that's a guess. In the best case scenario right now, it would be on staff probably about seven months, if they filed immediately, before we would get it to Board. If it's expedited by the Board member, we could probably do a little better than that – maybe five to six, but that's probably about what we would be looking at. If they proceed with it on a, you know, an expeditious basis. I think if they don't proceed with on an expeditious basis, we would issue the notice of violation and take action through the courts, which would take a lot longer than the SE, probably, to resolve.

Commissioner Litzenberger: About how long would that take? Ballpark.

Ms. Abrahamson: By the time it goes through – you know, and again, there's so many things that can happen. Usually what happens is they file an appeal immediately on something and then it goes through an appeal process at the Board of Zoning Appeals. If they do that route, you know, I would say at least a year by the time we've worked through an appeal; and the courts, it could be longer. Depending on the court's calendar, you know, things can take a very long time. Our goal is to not have court cases and generally what we try to do is work with applicants on violation situations to resolve them and we're usually pretty successful in that. We have a very small percentage that we actually have to take to court.

Commissioner Litzenberger: One point that Commissioner Hall made last time was the – the access drives from route 50 to the service road and maybe a necessity of possibly some stop signs or something to that effect. Would that be addressed during that process also?

Ms. Abrahamson: Well, yes.

Commissioner Litzenberger: Okay.

Ms. Abrahamson: If – if it becomes a public service drive in the public system, it will be subject to VDOT and VDOT's warrants. If it remains a private road in the interim, then it would be up to whatever the applicant wants to do because we don't control it as a private. So, you know, most likely what will happen is it will be in the VDOT system because we are – you know, we would seek dedication of that and – you know, that's what was previously conditioned as well. And if, you know, any signage or anything is necessary with that, as long as it meets VDOT warrants – and there are warrants for stop signs and other, you know, notices as well as signals.

Commissioner Litzenberger: So all of that would take place during the process, the SE process.

Ms. Abrahamson: It would – yes, it would, you know – what we would do – we’d look at it, we’d see what we can do. If we think it has any hope of making the warrants or if it’s even close, we usually have them do at least a warrant analysis, if it’s close. If it’s, you know, if there’s six of the seven or eight – I think there’s eight; I’m not sure anymore – criteria it doesn’t meet, then we wouldn’t tell them to do a warrant analysis. But if they’re really close, we’d have them do that analysis and as a condition of the SE we would ask them to put any kind of materials necessary in place. But right now I can’t tell you what that is because I’d have to run the numbers in today’s time.

Commissioner Litzenberger: Okay. Will Mr. Adams please come down?

Scott Adams, Esquire, Applicant’s Agent, McGuireWoods LLP: Good evening.

Commissioner Litzenberger: Give us your name and –

Mr. Adams: Scott Adams with McGuireWoods. I represent the applicant.

Commissioner Litzenberger: Thank you. I know you’ve told us this at Supervisor Frey’s office, but I don’t recall. Once, say, if the Board of Supervisors does in fact support this, which I think your Board dates to December, how long before the facility would be operational?

Mr. Adams: To go through site plan, building permit, construction, occupancy, probably around two years would be my guess.

Commissioner Litzenberger: Okay, thank you.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes, can I ask one question of staff?

Ms. Abrahamson: Sure.

Commissioner Hart: We have other SE uses that have been approved, subject to an applicant demonstrating or obtaining offsite easements. This one doesn’t have that and we got new conditions that, I guess, didn’t require that either. It seemed to me that the – the application would have been stronger with at least the service drive being available with a public easement, or dedication, or something; and that the current – in the absence of that, the fallback position which, I guess, staff is comfortable with, is basically the U-turns on 50 at the stop lights and dealing with it that way. What I wondered and what Commissioner Litzenberger had – we had discussed a little bit yesterday was, is there any point in putting a condition in requiring this applicant to diligently pursue something? It seemed to me that they – whether there’s enforcement or not against the service station is somewhat extraneous and it’s nothing, really, this applicant is going to be involved in directly. But is there’s something for this applicant to

diligently pursue, whether or not the service station follows through on its – on its own application – something to either obtain – the offsite easement or do something with that?

Ms. Abrahamson: And that's a difficult question to answer. I'll do my best. The problem that we have with this application is we have to have a nexus, a determination, with the use that is being requested and the conditions we're proposing. There has been no determination from staff, from VDOT, or the transportation staff looking at the numbers generated by this actual use that would support that type of condition, frankly. You know, it – the trip generation on this use – I've said for, you know – this is, like, the dream use on that property when it comes to trip generation because it's so low and the impacts are – are so minimal. That doesn't mean that it's not going to generate any trips and it doesn't mean that some people – I've used that service drive, ok, illegally. I'm getting – but, you know, I – I understand the attraction. I understand the Commission's concern, but when you look at the numbers, which is what we have to look at, and we have done due diligence, and we have gone back twice to look again and make sure we didn't miss something, there isn't any reason why staff would make that recommendation to you because we couldn't support that nexus here with this use. I don't like U-turns either, but the level of U-turns that are anticipated to be generated is acceptable in VDOT's system, so the answer is, you know, we could put a condition on here that says that they'll diligently pursue a public access easement on that service road. I don't know how we will enforce it. "Diligently pursue" is one of those phrases that, as – in my job, I hate because I don't know what it means, okay. I don't know how to demonstrate it. I don't know how to make sure it happens, you know. Somebody, you know – Scott's a good guy. He'll go out and he'll try real hard but, you know, some other applicant might just say, "well, you know, I talked to the guy and he said, 'no dice. I'm through.'" Okay, he said, "I diligently pursued it." You know, we've had people file letters. But the bottom line is if he doesn't want to do it, then he should decide to take umbrage with it. I don't know that I could defend it, I don't know that the county attorney would suggest defending it, and I don't know how far we can push it. We can try. I think this applicant would probably be willing to try, but I don't know how far you can push what "diligently pursue" really means when you can't control the property, and when you're putting them in a position where another property owner has them over a barrel, basically – because he owns that property and he can say, "sure, I'll give it to you for \$2 million," or whatever – and we can't do anything about that. You know, it's not something – if this had the use that required it, we'd – we'd push harder because we'd have a nexus to push harder. We don't really have it here. And that's kind of, I guess, a long way to say I don't know the answer to your question, really.

Commissioner Hart: Not to prevent the U-turns or not to prevent the cut-throughs to the neighborhood that – that –

Ms. Abrahamson: We think that while there is no way to totally preclude U-turns or totally preclude people from going through the neighborhood, when you look at the trip distribution that we can anticipate, none of us will really know what happens until it's out there, because all we can use are the – the numbers and the models. The trip generation on this is so low and the – the timing on the lights that exist work so that there is actually a break, and if you go out and actually try to get out, you can get out. It's not one of those things where, like, I'm taking my life in my hands and I'm just going to go because I've been sitting here for half an hour. The signals are timed in such a manner that there is a break and even at the busiest times, you can get in and out of here. You couldn't get a stack of 20 cars out of here, but this use doesn't have that kind of

generation even when the shifts change. So there's no – there's just no way to say that this is an unacceptable level without that. If they can get agreement to do it – if we can get this – the SE, sure, we'll get it. It will – it needs to be in the system eventually. We're going to do what we can to get the other guy out of trouble but, you know, putting that on this owner as a condition of his pretty low generation use is really not something that we can professionally tell you is a good idea. There isn't a nexus there. I can't tell you no one will ever do it, but I can tell you it's going to be at such a low level that it won't be a problem. And it's really a pain in the butt for people to go through the neighborhood, although somebody may figure it out. You know, it's not a direct cut-through. It's not a direct way to get to that light.

Commissioner Hart: All right. Thank you.

Chairman Murphy: Mr. Lawrence, then Ms. Hall.

Commissioner Lawrence: Thank you, Mr. Chairman. I'll try to be as brief as I can. I had gained the understanding that there was going to be agreement of you putting some signage on the service road that said don't park on this side, and that eased a concern that I had about single-axel trucks with medical supplies and taking people away for dialysis and patients with Alzheimer's may be compromised in other ways. And I thought that would balance it out. Is there any reason to believe that that's not going to happen, given the timeframes that we just heard for these things to develop?

Ms. Abrahamson: If the applicant consents to do some offsite signage on the service drive, as long as that service drive is not in no-man's land in – in – it could happen. Right now, it's kind of in an ambiguous situation. We've got a site where it's in private ownership at the moment – or at least most of it is. There's a little piece that's not. Most of it is in private ownership. We can't put signs legally on Matthews property while it's in private ownership. When they come through, we've already been through this in 1971 – 1971, when they did their Special Exception and even then we said, "you need to dedicate that service drive." It's going to be a request again when it comes to you as a Special Exception. If they elect for some reason not to pursue the Special Exception, we will – we will prosecute them and it will be their choice what they do with that property. They have a viable commercial use on it right now. You know, if they want to continue that viable commercial use, it needs a Special Exception. If they don't, they could abandon it. they could walk away and we would get nothing – we – until someday, something will happen. So I – we're kind of in this – I can't guarantee you the answer to that question. If it's in the public sector, we can pursue it through VDOT as a – you know, as a sign and, you know, if it meets, warrants whatever we want in there, we can do through the public system – it will have to have VDOT approval, so anything would be subject to VDOT. Right now, only a little, tiny piece in the wrong area is subject to VDOT approval because we have a little, tiny piece that's dedicated. Until that happens, it's private, and so even if this applicant would try and take, you know, do the due diligence and – and try and, even if the owner agrees, the guy doesn't have to leave it there. He doesn't have to do what you want. I have no way to force him. The only way I have to force him is by – you know, by the grace of God, he's in violation. So, we can enforce that and get him to come back in and – and redo his application, but I – I can't guarantee if he's going to do that or what's going to come through.

Chairman Murphy: Okay. I just want to remind everyone we are on verbatim because this is a decision only.

Ms. Abrahamson: Okay, the short answer is no.

Chairman Murphy: That's the way to go on verbatim. Okay. Anyone else?

Ms. Abrahamson: There's no good answer.

Chairman Murphy: All right, Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I want to thank all of the commissioners for their constructive recommendations. The staff worked long and hard along with applicant to try to iron out all of the concerns of the neighbors and they did a really good job. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2014-SU-010, SUBJECT TO THE DEVELOPMENT CONDITIONS DOWN DATED OCTOBER 21<sup>ST</sup>, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Before we vote, can we ask the applicant if they're on board with the new development conditions? I think we're supposed to do that –

Chairman Murphy: Right. I was just going to bring that up. Could you come forward again, please?

Mr. Adams: Good evening again. We are comfortable with the development conditions that were circulated yesterday.

Chairman Murphy: Okay.

Commissioner Litzenberger: My mistake. Let me read it. Mr. Adams, I request the applicant confirm for the record the proposed development conditions now dated 21 October, 2014.

Mr. Adams: We confirm that we are comfortable with those.

Commissioner Litzenberger: Thank you.

Chairman Murphy: All right.

Commissioner Litzenberger: All right. I have three – four more.



Chairman Murphy: Okay, all those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-SU-010, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman? Abstain; not present for the public hearing.

Chairman Murphy: Mr. Sargeant abstains; not present for the public hearing. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE ADDITIONAL STANDARD FOR MEDICAL CARE FACILITIES, SECTION 9-308.5, REQUIRING A 100-FOOT SETBACK FROM ADJACENT RESIDENTIAL PROPERTIES ZONED TO THE R-1 DISTRICT, IN FAVOR OF THE 30-FOOT SETBACK SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE NORTH, NORTHWEST, AND EAST BOUNDARIES IN FAVOR OF THE LANDSCAPING SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG ROUTE 50, LEE JACKSON MEMORIAL HIGHWAY.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE MAJOR PAVED TRAIL REQUIREMENT ALONG THE NORTH SIDE OF ROUTE 50, LEE JACKSON MEMORIAL HIGHWAY, IN FAVOR OF THE TRAIL SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Abstain.

Chairman Murphy: Same abstention.

The motions carried by a vote of 10-0-1. Commissioner Sargeant abstained; Commissioner de la Fe was absent from the meeting.

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#### MINUTES APPROVAL FOR MARCH AND APRIL 2014

Commissioner Hall: WILL YOU ALL APPROVE THE MINUTES FOR MARCH AND APRIL 2014?

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Commissioner Hedetniemi. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 11-0. Commissioner de la Fe was absent from the meeting.

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#### ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. AR-97-D-002-02 – CHARLES JENKINS
2. SEA 90-S-021 AND 2232-Y13-10 – MILESTONE TOWER LP, III d/b/a MILESTONE COMMUNICATIONS AND CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS
3. RZ/FDP 2013-PR-009 – TYSONS WESTPARK, LC

This agenda was accepted without objection.

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AR-97-D-002-02 – CHARLES JENKINS – Appl. Renewal authorized by Chapter 115 (County Code), effective June 30, 1983, to permit renewal of a previously approved agricultural and forestal district. Located at 10509 Beach Mill Road, Great Falls, on approx. 21.24 ac. of land zoned R-E. Tax Map 3-4 ((1)) 44Z, 45Z, and 46Z. DRANESVILLE DISTRICT. PUBLIC HEARING.

Commissioner Ulfelder asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Ulfelder for action on this case.

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Chairman Murphy: Public hearing is closed; right.

Commissioner Ulfelder: Thank you, Mr. Chairman. This is right next to one we recently recommended approval, and it was approved by the Board, up in northern Great Falls. The – so, I'm going to MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT AR 97-D-002-02 BE APPROVED AND APPENDIX F OF THE FAIRFAX COUNTY CODE BE AMENDED TO RENEW THE JENKINS LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO ORDINANCE PROVISIONS DATED OCTOBER 15<sup>TH</sup>, 2014.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors to approve AR 97-D-002-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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SEA 90-S-021 – MILESTONE TOWER LP, III d/b/a MILESTONE COMMUNICATIONS AND CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS – Appl. under Sect. 3-C04 of the Zoning Ordinance to amend SE 90-S-021 previously approved for electric substation to permit a telecommunications facility and associated modifications to site design and development conditions. Located at 15001 Lee Hwy., Centreville, on approx. 2.76 ac. of land zoned R-C and WS. Tax Map 64-2 ((3)) 26A. (Concurrent with 2232-Y13-10.) SULLY DISTRICT.

2232-Y13-10 – MILESTONE TOWER LP, III d/b/a MILESTONE COMMUNICATIONS AND CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS – appl. under Sects. 15.2-2204 and 15.2-2232 of the *Code of Virginia* to permit a telecommunications facility. Located at 15001 Lee Hwy., Centreville, on approx. 2.76 ac. of land zoned R-C and WS. Tax Map 64-2 ((3)) 26A. (Concurrent with SEA 90-S-021.) SULLY DISTRICT. JOINT PUBLIC HEARING.

Frank Stearns, Esquire, applicants' agent, Donohue & Stearns, PLC, reaffirmed the affidavit dated September 25, 2014.

There were no disclosures by the Commissioners.

Commissioner Litzenberger asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on these items.

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Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman, if you'd kind of bear with me here. I originally had one motion and now, I'm up to seven.

Commissioner Lawrence: Keep working.

Commissioner Litzenberger: Mr. Stearns, will you please confirm for the record the agreements of the proposed development conditions dated October 15<sup>th</sup>, 2014?

Frank Stearns, Esquire, Applicant's Agent, Donohue & Stearns, PLC: I do.

Commissioner Litzenberger: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 90-S-021,

SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED OCTOBER 15<sup>TH</sup>, 2014.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 90-S-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF TRANSITIONAL SCREENING REQUIREMENTS PER SECTION 13-305, PARAGRAPH 3, TO CONSIDER EXISTING VEGETATION AND PROPOSED VEGETATION, AS DEPICTED ON THE SEA PLAT AND AS CONDITIONED, AS SATISFYING REQUIREMENTS.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi and Mr. Flanagan. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE BARRIER REQUIREMENTS TO CONSIDER THE EXISTING 11-FOOT CHAIN-LINK FENCE WITH SLATS AND THE PROPOSED 8-FOOT CHAIN-LINK FENCE WITH SLATS, AS DEPICTED ON THE SEA PLAT, AS SATISFYING REQUIREMENTS.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Excuse me. I MOVE THAT THE PLANNING COMMISSION RECOMMEND A CONTINUATION OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG LEE HIGHWAY.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Our enthusiasm is waning. I'm not quite sure, but okay.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND DIRECTION TO THE DIRECTOR OF DPWES TO CONTINUE A WAIVER OF THE DUSTLESS SURFACE REQUIREMENT OF THE PFM, TO ALLOW THE GRAVEL DRIVEWAY AND PARKING AREAS SHOWN ON THE SEA PLAT.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Motion carries.

Commissioner Litzenberger: Okay, Mr. Chairman. Moving onto the 2232.

Chairman Murphy: I can hardly wait.

Commissioner Litzenberger: Okay. I CONCUR WITH STAFF'S CONCLUSION THAT THE PROPOSED MILESTONE COMMUNICATIONS, INC., AND VERIZON WIRELESS TO CONSTRUCT A 30-foot tall [*sic*] – 130-FOOT TALL LATTICE TOWER, LOCATED AT 1501 LEE HIGHWAY [*sic*] , CENTREVILLE, VIRGINIA, SATISFIES THE CRITERIA OF LOCATION, CHARACTER AND EXTENT, AS SPECIFIED IN *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED. THEREFORE, MR. CHAIRMAN, I MOVE THAT THE PLANNING COMMISSION FIND SUBJECT APPLICATION 2232-Y-10 [*sic*] SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion to approve 2232-

Michael Lynskey, Zoning Evaluation Division, Department of Planning and Zoning: Excuse me.

Commissioner Hall: Wait, Mr. Chairman. Wait, Mr. Chairman.

Mr. Lynskey: The number of the 2232 – it's 2232-Y13-10.

Commissioner Litzenberger: What did I say?

Mr. Lynskey: “Y”.

Commissioner Hall: Just, you transposed the two.

Commissioner Litzenberger: Okay, my dyslexia came to the surface.

Chairman Murphy: So noted. All those in favor of the motion to approve 2232-Y13-10, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 10-0. Commissioner Sargeant recused himself from the public hearing. Commissioner de la Fe was absent from the meeting.

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RZ/FDP 2013-PR-009 – TYSONS WESTPARK, LC – Appls. to rezone from C- 7, HC, and SC to PTC, HC, and SC to permit mixed use development with an overall floor area ratio (FAR) up to 6.37 to approve the conceptual and final development plans and to approve Waiver # 826-WPFM-002-1 to permit the location of underground stormwater management facilities in a residential development. Located in the S.E. quadrant of the intersection of Leesburg Pike and Westpark Dr. on approx. 5.37 ac. of land. Comp. Plan Rec: Residential Mixed Use. Tax Map 29-3 ((15)) 8. PROVIDENCE DISTRICT. PUBLIC HEARING.

Elizabeth Baker, Land Use Coordinator, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated September 18, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Ms. Baker’s law firm in which there were attorneys representing an adverse party, but indicated that it would not affect his ability to participate in this case.

Bob Katai, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application RZ/FDP 2013-PR-009.

Referencing page 25 of the staff report, Commissioner Lawrence noted that the applicant had requested building heights in excess of the maximums recommended in the Comprehensive Plan and asked Mr. Katai to briefly explain the justification provided by the applicant. Mr. Katai stated that applicant justified the proposed heights for the following reasons:

- The applicant committed to provide 20 percent of the residential units as workforce housing, adding that the Comprehensive Plan recommends height flexibility in such cases, allowing the additional height as a way to accommodate the additional units;

- The buildings stair-stepped up the natural slope, thereby creating a varied skyline by taking advantage of the site's topography;
- As substantial compliance with the approved CDP and FDP would be required with the approved building plan, the increased building heights would be limited to the areas shown, and not be available across the entire building footprint; and
- The highest points of the two proposed residential buildings would create a visual portal that would serve as a landmark to the project and its large, central public park.

Commissioner Lawrence noted that the park would be a substantial contribution by the applicant, as it would be a public facility, and Mr. Katai concurred, noting that it would be 1.78 acres in size. Commissioner Lawrence pointed out that the site was small and asked if the terms of the building heights request were unique to this application. Mr. Katai confirmed that they were.

Commissioner Hart noted that Proffer Number 15A, Electric Vehicle Charging Infrastructure, needed clarification as to whether there would be a minimum of four electric vehicle recharging stations for all of the buildings or a minimum of four for each building. He added that if the conduits were required in each building, the applicant must make sure that there was enough vault space for any additional transformers that might be required for future conduits.

Ms. Baker stated that the application was originally submitted in 2011, adding that it was included with the adjacent Meridian development and later separated. She noted, however, that the applicant had worked diligently with Meridian on the grid of streets, library, and athletic fields to create a community that would be seamless. She said that the neighborhood park would be the centerpiece of the development, but pointed out that the applicant would also provide a civic park that would move into the Meridian property where there was a large common green, thereby creating an open space that would be easily accessible for everyone in the Tysons central area. She echoed earlier remarks regarding the building heights and the 20 percent workforce dwelling units proposed by the applicant, and described how the applicant worked with staff to modify the building heights to create a more visually attractive skyline.

Commissioner Lawrence noted that the varying building heights fit well, given the topographical confines of the site, and asked Ms. Baker if the terms of the building heights request were unique to this application. She said that they were meant for this particular proposal and the unique topography of this site.

Ms. Baker continued her presentation, noting that the buildings would be tallest at the intersection of Madison Street and Park Avenue, where there would be architectural features topping the buildings that would also serve to conceal equipment. She added that the applicant proposed interim uses, with the residential building, D1, being constructed with up to 610 units, and an interim park that would be located on the site of the remaining two buildings. She added that the park would contain a large green space, a sand volleyball court, and picnic areas until Buildings D2 and D3 were ready for construction. Additionally, Ms. Baker noted that the applicant had committed to a number of proffers, including a strong Transportation Demand



Management (TDM) program, LEED initiatives, contributions to a library on the adjacent property, and an athletic field on Gallows Road.

Commissioner Lawrence referenced the second bullet on page 20 and asked Ms. Baker if there was enough flexibility in the TDM program to take technological innovations such as smart cars into account. Ms. Baker stated that while it was incumbent upon every developer to take such changes into consideration, the goal of the development, particularly in Tysons, was take people out of their cars and get them into transit, onto bikes, and/or walking. When Commissioner Lawrence asked Ms. Baker about *Energy/Resource Conservation* on page 28, she acknowledged that the language needed to be clarified and explained that it was intended to be in line with Proffer Number 15, Energy Sustainability. She said that the intent of the first bullet was to provide a minimum of four charging stations that would serve eight parking spaces, along with additional conduit. She added that she understood that additional space would be required for the additional transformers and said that there was no intention of precluding the additional space or conduit. Commissioner Lawrence agreed and also commended the applicant for adding language regarding water and heating and cooling.

Commissioner Flanagan referenced Proffer Number 46, Workforce Dwelling Units (WDU), and asked Ms. Baker to explain the bedroom mix reference in the third sentence of the second paragraph. Ms. Baker explained that the percentage of one- and two-bedroom WDU units should be the same as the percentage of market-rate units. Commissioner Flanagan then referenced the third paragraph and asked about the nullification of the proffer. Ms. Baker explained that if the applicant were to enter into a separate agreement with the Board of Supervisors regarding the administration of the WDUs, then that agreement would supersede this proffer. She assured Commissioner Flanagan, however, that the applicant had no intention of entering into any such agreement.

Commissioner Hart asked what kind of street Park Avenue would be. Ms. Baker explained that it was a collector street, adding that the name would likely be changed to connect with the final grid of streets, once completed. Commissioner Hart asked if the applicant was providing green roofs. Ms. Baker explained that the park podium would be a grassy public space that would also use stormwater management and retain water. She noted that the taller buildings would have some vegetation that would be part of the stormwater management system, but neither area would be public. Commissioner Hart noted that four charging stations for approximately 2,000 parking spaces seemed low and suggested the applicant consider increasing the number. Additionally, he suggested that while there should be charging stations in all of the parking areas, the residential parking would likely need it most for overnight charging. Ms. Baker agreed.

Commissioner Sargeant asked whether the estimated number of students generated was based on the total number of units or on the separate building unit numbers. Ms. Baker stated that the number was based on the total number of units at 1,300. When Commissioner Sargeant noted that the number, at 136, seemed small, Ms. Baker countered that the Fairfax County School Board updated it each year and stated that the applicant had proffered to move with those updates. With regard to Building D1, Commissioner Sargeant asked how many WDUs would be provided during the interim use period. Ms. Baker said that 20 percent of the units would be workforce units. When Commissioner Sargeant asked Ms. Baker if the units would be affordable, particularly given the high cost of living in Tysons against the average salaries, Ms.

Baker stated that the applicant utilized the formulas provided in the guidelines adopted in the Comprehensive Plan.

Commissioner Hurley suggested looking into the number of students that might be generated by this development. She asked if the amenities would be for use only by the residents or public. Ms. Baker said that the pool and amenities would be for private use by the residents.

Chairman Murphy called for speakers, but received no response; therefore, he noted that a rebuttal statement was not necessary. He then called for concluding remarks from the Planning Commission.

Commissioner Lawrence noted that he would defer the application for one day to allow the Commissioners to review the application more thoroughly. In addition, said that there would be a brief period for questions prior to his motion. He asked if the applicant would be available, to which Ms. Baker said she would.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case.

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Chairman Murphy: Public hearing is closed; Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ 2013-PR-009 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN TO A DATE CERTAIN OF OCTOBER 23<sup>RD</sup>, 2014.

Commissioners Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan.

Commissioner Lawrence: WITH THE RECORD TO REMAIN OPEN.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to defer decision only RZ/FDP 2013-PR-009 to a date certain of October 23<sup>rd</sup> with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 11-0. Commissioner de la Fe was absent from the meeting.

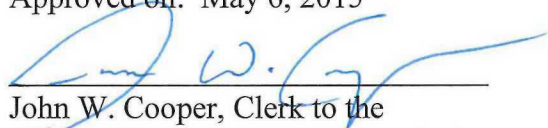
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The meeting was adjourned at 9:51 p.m.  
Peter F. Murphy, Chairman  
Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,  
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved on: May 6, 2015

  
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John W. Cooper, Clerk to the  
Fairfax County Planning Commission

